IN THE HIGH COURT OF UTTTARNCHAL
AT NAINITAL

Government Appeal No. 207 of 2001
(Old NO. 1685 of 1998)

State of Uttaranchal ….Appellant

Versus

Dal chand Kushwah
S/o Jamdar Singh
R/o Village Mithali,
Post Office – Mithali,
Distt. –Meerut
At Present – Krishi Raksha Paryavekshak
District Plant Protection Office,
Pauri Garhwal …Respondent

Sri A. Rab, Addl. G.A. and Sri Nandan Arya, learned A.G.A. for the State

Hon'ble J.C.S Rawat, J.

Perusal of the order dated 28.01.1998 passed by the Chief Judicial Magistrate reveals that there were deficiency of 4 chemicals amounting to Rs. 11,525.92. The learned trial court has given a specific findings that the report on the basis of which the accused has been implicated in the case, it has not been collected that there was the entrustment of the said chemicals and it is not proved that when these chemicals were given to the custody of the respondent. The trial court has further observed that there is no record, bills, receipts or other evidence when the said chemicals were sold and when this money was collected and when this money was deposited. In absence of the above evidence, the case u/s 409 I.P.C. cannot be said to be proved against the respondent. It was also observed in the judgment of the trial court that there is recommendation of the officer of the department that the prosecution could not be launched against the accused. It was also observed that no case is proved against the respondent. As such, the respondent was acquitted. I am completely in agreement with the findings recorded by the trial court.

In view of the above, I do not find any merit in leave to appeal application and the same is devoid of merit and is liable to be dismissed and the same is accordingly dismissed.

(J.C.S. RAWAT,J.)

4th April, 2006
Shiv